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FISCAL IMPACT STATEMENT

LS 7330

BILL NUMBER: SB 441

NOTE PREPARED: Feb 22, 2004

BILL AMENDED: Feb 19, 2004

SUBJECT: Property Tax Matters.

FIRST AUTHOR: Sen. Borst

FIRST SPONSOR: Rep. Crawford

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill makes various changes concerning property tax assessment, property tax administration, local government finance, and property tax appeals. It authorizes locally funded property tax credits for taxpayers meeting certain criteria.

Effective Date: (Amended) May 8, 2003 (retroactive); May 10, 2003 (retroactive); July 1, 2003 (retroactive); December 12, 2003 (retroactive); January 1, 2004 (retroactive); March 1, 2004 (retroactive); Upon passage; July 1, 2004.

Explanation of State Expenditures: *Emergency Rules:* Under current law, the DLGF and the IBTR may adopt emergency rules concerning formal appeals and informal hearings in reference to the Lake County reassessment. This bill would require that these rules expire by January 1, 2006.

Lake County Appeals: Currently, Lake County property taxpayers who wish to appeal their real property assessment must first request and participate in an informal hearing within 45 days of the date of the reassessment notice. The DLGF must send a notice to the taxpayer and local officials containing the result of the informal hearing. The taxpayer then has 30 days to file a petition for review.

If the DLGF fails to send the notice of the result of the informal hearing within 270 days of the hearing, the assessment cannot be changed under the informal hearing process. This bill would permit the taxpayer to file a petition for review within 30 days of the expiration of the 270-day period if the DLGF doesn't send the notice.

State Reassessment Public Notice: Under current law, a notice must be published in a newspaper in a county if the DLGF takes over a general reassessment in that county. This bill would require that the newspaper

actually be published in that county.

(Revised) *Abatement Processing*: During the 2003 legislative session (P.L. 245-2003 and P.L. 256-2003), the responsibility for certain property tax abatements was transferred from the DLGF to county auditors, effective for taxes payable in 2005. The proposal allows an extension by providing that the transfer of duties affects taxes payable in 2007. This provision will have no impact on the DLGF as they will continue with the tasks for two more years.

The DLGF may adopt temporary rules to implement the above. If the DLGF elects to adopt temporary rules, the DLGF could experience an increase in administrative expenses. However, the DLGF should be able to absorb any additional expenses given its current budget and resources.

(Revised) *Equalization Studies*: This provision would allow the DLGF to contract with an outside source for assistance with statewide equalization studies and the School Assessment Ratio Study.

(Revised) *Municipal Maximum Levies*: The municipal maximum levy increases contained in this bill would result in an increase in state PTRC and Homestead Credit expenditures. Any increase in these expenditures would ultimately affect the state General Fund. **The increase is estimated at \$7.0 M in FY 2005 (partial year), \$21.3 M in FY 2006, and \$22.2 M in FY 2007.**

(Revised) *Municipal Levy Appeals*: The 2004 municipal levy appeals contained in this bill would result in an increase in state PTRC and Homestead Credit expenditures. Any increase in these expenditures would ultimately affect the state General Fund. **The maximum increase is estimated at \$135,000 in FY 2004 (partial year), and \$270,000 in FY 2005 (partial year).**

Explanation of State Revenues: *Income Tax Deduction*: This bill corrects the homeowner's property tax deduction (for purposes of the individual Adjusted Gross Income (AGI) Tax) as amended by P.L. 1-2004. Under P.L. 1-2004, the maximum allowable homeowner's property tax deduction is temporarily increased in tax year 2004. This one-year increase applies only to homeowners who have any or all of their 2002 Pay 2003 property taxes deferred to tax year 2004. Under current statute the maximum allowable deduction is otherwise \$2,500 in a taxable year. The bill ensures that the deduction a taxpayer may claim in 2004 for these deferred property taxes may not exceed \$2,500 minus the deduction claimed in tax year 2003 for 2002 Pay 2003 property taxes that were paid in 2003 (and not deferred to 2004). In addition, the taxpayer would still be able to claim in tax year 2004 up to a \$2,500 homeowner's property tax deduction for 2003 Pay 2004 property taxes.

Explanation of Local Expenditures: (Revised) *Petition and Remonstrance*: Under current law, when the petition and remonstrance procedure is invoked for a bond issue or lease/rental, the taxing unit is restricted from spending public money to promote a position. The unit may, however, make payments to attorneys, architects, construction managers, or financial advisors for professional services. This bill would also permit these units to make payments to professional engineers and surveyors.

Local PTRC Payment Schedule: Under current law, the redevelopment commission in TIF and TIF-like areas may pay a credit similar to PTRC out of gross TIF proceeds. This provision adds payment schedule language to the law concerning military base reuse authorities that coincides with the language currently in force for all other TIF areas. Specifically, the credits which are normally paid in two installments each year would be paid on the same schedule as tax installments for homeowners that have entered into an installment payment plan for their property tax bills.

(Revised) *Abatement Processing*: Counties would also receive a two-year extension before they would have to assume responsibilities for certain property tax abatements. This provision could delay some expenses to counties for two years.

(Revised) *Property Tax Credits*: This bill allows counties to adopt two new credits for taxpayers occupying a homestead. The credits may be adopted before May 1, 2004, (and the credits become effective with taxes due and payable in CY 2005) only if the county had either a county adjusted gross income tax (CAGIT) or county option income tax (COIT) on January 1, 2004 (82 counties with 84.4% of the homesteads in the state had either a CAGIT or COIT tax in effect on that date). In CY 2005 and later a county must have a CAGIT or COIT tax in place by January 1 and adopt either of these credits before April 1 of the assessment year.

The first credit is available to taxpayers owning a homestead who paid real property taxes on that homestead starting in CY 2002 or earlier, whose adjusted gross income (AGI) in the assessment year is no more than \$40,000, and whose real property taxes must have at least doubled between CY 2002 and CY 2004. This credit is available for only two years. In the first year, CY 2005, the credit is equal to the difference between the 2003 pay 2004 and 2001 pay 2002 real property taxes on the homestead. In the second year, CY 2006, the credit is half of the difference between the 2003 pay 2004 and 2001 pay 2002 real property taxes on the homestead. This credit expires after 2006.

The second credit is available to taxpayers owning a homestead whose assessed value is no more than \$150,000 and which the taxpayer has owned for at least five years before the assessment date for the homestead in the year for which the taxpayers wishes to receive the credit (i.e., if a taxpayer wishes to receive this credit for taxes due and payable in CY 2005, which is based on March 1, 2004, assessments, the taxpayer must have owned the homestead on March 1, 1999). The second credit equals the lesser of:

- (a) one half the real property taxes after all deductions and credits other than this credit, or
- (b) the difference between the net real property taxes on the homestead and an amount based on the taxpayer's AGI. For taxpayers with an AGI less than \$20,000, the amount subtracted from net tax is 10% of the taxpayer's AGI; for taxpayers with an AGI greater or equal to \$20,000 but less than \$50,000 the amount subtracted is 4% of the taxpayer's AGI.

The net tax base for both credits equals the property tax less all other credits and deductions. Therefore, it is assumed that if a county adopts both credits, the first credit is deducted from net real property taxes before the second credit is computed on properties that qualify for both credits.

Counties adopting one or both credits are authorized by this bill to increase their CAGIT or COIT tax rate by up to 0.25%, and this rate increase is not subject to the combined rate limitations otherwise applicable to county income taxes.

There is some uncertainty in currently available data as to the exact number of eligible homesteads in the state. The low estimate of 1.28 million homesteads is derived from deductions for property tax paid in the CY 2001 Indiana income tax data; a middle estimate of 1.48 million homesteads is derived from the total value of the standard (or homestead) deduction for CY 2002 by assuming that each taxpayer received the maximum \$6,000 deduction; and the highest, at 1.67 million, is based on Census 2000 estimates. The fiscal estimates computed here are based on an extension of the CY 2001 Indiana state income tax data to CY 2005 and CY 2006, and are therefore provided as the low estimates. These estimates are increased by 31% (the ratio of the Census 2000 estimate to the estimate derived from the DOR CY 2001 data) to provide a high estimate.

The cost of the credits, if all eligible counties adopt both credits, is estimated at \$58 M to \$76 M in CY 2005, \$51 M to \$67 M in CY 2006, and \$36 M to \$47 M in later years. These estimates assume that all eligible taxpayers apply for the credit. The bill requires that a taxpayer file for the credit during the 12 months prior to May 11, 2004, in order to receive the CY 2005 credit. Due to the timing of the enactment of this provision and the time necessary to adopt the increase in the local option income tax (by May 1, 2004), the number of taxpayers who may be able to apply and receive this credit in CY 2005 may be substantially reduced. The maximum cost estimates are presented in the table below.

Range of Estimated Credit Cost						
Origin of Number of Homesteads	CY 2005			CY 2006		
	Credit 1 Only	Credit 2 Only	Both Credits	Credit 1 Only	Credit 2 Only	Both Credits
DOR (low)	\$33.6 M	\$31.3 M	\$58.3 M	\$18.8 M	\$36.2 M	\$51.1 M
Census (high)	\$43.9 M	\$40.9 M	\$76.1 M	\$24.6 M	\$47.2 M	\$66.7 M

The total value of the credits is not equal to the sum of the separate credits since, when both credits are taken, Credit 1 must be applied to reduce the net real property taxes before Credit 2 is computed. The CY 2005 estimates are for the 86 counties with CAGIT or COIT taxes as of January 1, 2004; the CY 2006 estimates are for all 92 counties.

Explanation of Local Revenues: *Shortfall Appeals:* Under current law, a civil taxing unit or school corporation may appeal for an excessive levy if it has experienced a revenue shortfall due to refunds paid on appeals. These units may not know until the end of the year that they have indeed experienced a shortfall. By then, it is too late to initiate the excessive levy appeal process for taxes due in the upcoming year. This bill would allow a civil unit or school corporation to initiate the process before the end of the year if it believes it will experience a shortfall. The relief could not be granted unless the shortfall actually materializes.

Property Tax Deductions: Current law (under SEA 1-2004) allowed an extended period for homeowners to file for several property tax deductions to be effective for taxes paid in 2004. Current law required applications filed during the extended filing period to be filed *before* December 15, 2003. This provision clarifies that deduction applications that were received *on* December 15, 2003, are valid against property taxes to be paid in 2004.

(Revised) *Fair Market Value:* This provision provides that the assessed value of residential property may not exceed fair market value. The bill allows residential taxpayers to appeal their March 1, 2003, assessment until June 30, 2004, on the basis that the assessment exceeds fair market value.

(Revised) *Township Reassessments:* Under current law, a petition may be filed to have all of the real property in a township reassessed in years without a general election. The petition must be filed by a minimum percentage of the property owners in the township. The percentage varies with the population of the township and whether or not it contains a municipality. Under this provision, a minimum of ten property owners or the owners of property with at least 1% of the township's total assessed value could file the petition. This bill would allow a lesser number of taxpayers to sign a petition that begins the process.

(Revised) *Rental Property Assessments:* Under SEA 1-2004, beginning with taxes paid in 2006, all rental property with more than four units must be valued under the approach (cost, sales, or income capitalization) that yields the lowest valuation. Under this bill, the assessment requirements for rental properties would take effect with taxes paid in 2005.

The preferred valuation method for rental properties with less than five units and rented mobile homes is the gross rent multiplier method (income capitalization). This provision may result in a change in the 2004 pay 2005 assessed value tax base which would cause a shift of the property tax burden from the taxpayers receiving assessed value reductions to all taxpayers in the form of an increased tax rate. Total local revenues, except for cumulative funds, would remain unchanged. The revenue for cumulative funds would be reduced by the product of the fund rate multiplied by the reduced assessed value amount applicable to that fund.

(Revised) *Location Cost Multiplier*: Under current DLGF assessment guidelines, the reproduction cost of real property improvements is adjusted by a location cost multiplier (LCM). The LCM ranges from 0.93 to 1.11. This provision would prohibit the use of LCMs beginning with March 1, 2009, assessments. This provision would likely not have much impact on the final assessed value of real property. This is because the last step in the assessment process is to apply a sales factor to the reproduction cost to approximate market value. If the LCM is above 1.00, the removal of the LCM would cause the sales factor to increase. Conversely, if the LCM is less than 1.00, the removal of the LCM would cause an increase in the sales factor. Counties with an LCM equal to 1.00 would be unaffected.

(Revised) *Assessment of Low-Income Rental Housing*: The bill would require assessors to the use of the capitalization of income method on low-income rental housing and would prohibit consideration of tax credits or government subsidies in determining the value of this property.

Under SEA 1-2004 (and moved up one year by this bill), all rental property with more than four units must be valued under the approach (cost, sales, or income capitalization) that yields the lowest valuation. The income capitalization approach would most likely yield the lowest assessment for low-income rental housing and would probably be used even in the absence of this provision.

However, the restrictions that this bill places on the income considered could reduce the value of some low-income rental property in certain situations. There is a great deal of uncertainty surrounding the issue of when and how subsidies are to be considered under current statutory law, current case law, and the new market value assessment rule. Currently, the assessment of low-income housing property under the income method might or might not consider the income from subsidies. Under this bill, these assessments definitely would not consider subsidy income.

(Revised) *Equalization*: Under current law, the county property tax assessment board of appeals (PTABOA) may equalize assessments for the immediately preceding assessment date only. This bill would remove this limitation. Current law requires the county assessor to equalize assessments between the townships in the county after a general reassessment. This bill would require the county assessor to equalize after a general reassessment and in other years under DLGF rules regarding reassessment equalization and annual adjustments.

(Revised) *Approval of Appointed Library Board Levies*: Under current law, fiscal bodies of cities, towns, and counties must review and adopt budgets and tax levies for taxing units that (a) are not comprised of a majority of officials who are elected to serve on the governing bodies and (b) are proposing an increase in the tax levy that is greater than 5%. This provision does not apply to school corporations. The fiscal bodies that review and adopt the budgets are currently prohibited from reducing the proposed tax levy to an amount that is less than the maximum levy.

Under this proposal, any budget proposed by an appointed library governing body would have to be reviewed by the elected fiscal body of the city or town, *township*, or county. The smallest of these units in which the library is wholly contained would provide review. There are 239 library boards.

(Revised) *Municipal Maximum Levies*: Under current law, as amended by SEA 1-2004, most maximum levies are equal to the previous year's actual levy multiplied by the assessed value growth quotient (AVGQ). The AVGQ equals the most recent six-year average percentage growth in Indiana nonfarm personal income. This method of computing maximum permissible levies eliminated any levy authority that was unused in CY 2003 and eliminates future unused authority, if any.

This bill would apply to maximum levies for cities and towns only. Under the bill, 2005 municipal unit maximum levies would equal the unit's 2002 maximum levy, increased by the AVGQs for 2003, 2004, and 2005. In essence, the unused levy authority from 2003 would be restored for 2005.

The AVGQ was 4.8% in 2003 and 4.7% in 2004. Based on the January 12, 2004, economic forecast, future AVGQs are estimated at 4.4% in 2005 and 3.9% in 2006. The 2004 maximum levies were estimated based on the changes in SEA 1-2004 and based on actual 2003 levy data where available, and 2002 levy data where the 2003 levies have not yet been certified. For this analysis, the municipal maximum levies for 2004 and beyond were first estimated under current law using the above estimated AVGQs. Then they were re-estimated using the 2002 maximum levy as a base, using the appropriate AVGQs each year. The increases continue to occur after 2005 because of the increased amount on which these years' maximum levies are based. It is assumed that since any unused levy authority would be eliminated for municipalities after 2005, municipalities would take full advantage of this increase in maximum levies each year.

The result is an overall increase in the maximum levies of 176 municipalities of approximately \$102.4 M in CY 2005, \$106.4 M in CY 2006, and \$110.6 M in CY 2007. Net property tax increases (gross levies minus PTRC and Homestead Credit) are estimated at about \$81.3 M in CY 2005, \$84.5 M CY 2006, and \$87.9 M in CY 2007.

(Revised) *Municipal Levy Appeals*: In addition to the change in 2005 maximum levy calculations above, this bill would allow municipalities to petition the DLGF for an increase in their 2004 levy if:

- (1) The municipality received a COIT distribution in 2002 that exceeded collection estimates or the municipality received a supplemental COIT distribution in 2002; and
- (2) The municipality's 2003 levy was less than its 2002 levy.

Based on these requirements, 12 municipalities would qualify for an additional levy in 2004 in amounts ranging from \$1 to \$1.7 M. The total additional levy possible under this provision is estimated at just under \$2.0 M.

(Revised) *Property Tax Data*: Under current law, the county assessor and the county auditor must remit property tax assessment and billing data for each parcel and each personal property tax return to the Legislative Services Agency and to the DLGF. The state must withhold the property tax replacement credit payments attributable to the county reassessment fund from any county that does not remit all of the required data. This provision would increase the penalty to equal 2% of the total state PTRC and homestead credit payments for all funds in all units in the county. If a county fails to comply with the data requirements, the loss in revenue would be much greater under this provision than under current law. The bill stipulates that the county auditor must remit the tax billing data within the later of (1) March 1 or (2) 30 days of mailing tax statements.

(Revised) *Local Option Income Tax Distributions*: The bill clarifies that the term "levy" as it pertains to local option income tax distribution formulas refers to the previous year's abstract levy. This clarification should have no fiscal impact.

(Revised) *County Land Valuation Commissions*: This bill repeals the county land valuation commission and current law provisions involving the Property Tax Assessment Board of Appeals (PTABOA) and the DLGF in the setting of land values.

(Revised) *Solid Waste Management District Levies*: This provision allows the DLGF to set the tax rates for counties who participate in a multi-county solid waste management district for taxes payable in 2004 in cases where one of the participating counties has not sent the DLGF their assessed valuation for the taxing district. The DLGF could certify the tax rates for the other participating counties who had completed their assessed valuations based on the portion of the individual county's certified assessed value in 2002 relative to the total certified assessed value of all the counties that participated in the district for that same year.

(Revised) *LOIT for Property Tax Credits*: The revenue generated by the maximum 0.25% increase in the CAGIT or COIT tax rates is estimated to be \$251 M in CY 2005 (for the 86 eligible counties) and \$303 M in CY 2006 (for all 92 counties). Approximately \$58 M to \$76 M in CY 2005, \$51 M to \$67 M in CY 2006, and \$36 M to \$47 M in later years would be necessary to fund the credits if all eligible counties adopt.

The bill requires the county auditor to retain enough money from the county's certified distribution of local option property taxes to pay for the credit. If a county cannot raise enough revenue from the maximum 0.25% additional rate to pay for the credits, the certified shares distributed to qualifying taxing units would be reduced.

State Agencies Affected: Department of Local Government Finance; Indiana Board of Tax Review; Local Government Property Tax Control Board; Department of State Revenue.

Local Agencies Affected: County auditors; Military base reuse authorities; Local civil taxing units and school corporations.

Information Sources: Local Government Database; *January 12, 2004, Revenue Forecast*, Revenue Technical Committee; OFMA Income Tax Database, Tax Year 2001.

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